

LR Gen 109 BANKRUPTCY

- (a) **References and Withdrawals of References of Bankruptcy Cases.** All cases arising under Title 11 shall be referred automatically to the bankruptcy judge(s) of this District. The reference of any case or proceeding or any portion thereof may be withdrawn at any time by the District Court, *sua sponte*, or, for good cause shown, upon the motion of any party. A motion for withdrawal of a reference shall not automatically stay any proceeding, but the District Court in its discretion may order a stay.
- (b) **Filings in Bankruptcy Cases.** The bankruptcy clerk shall maintain all files in bankruptcy cases referred by the District Court. Except with respect to appeals, cases in which the reference has been withdrawn, or other matters pending before the District Court, all documents filed in such cases shall be filed with the bankruptcy clerk.
- (c) **Jury Trials in Bankruptcy Court.** Pursuant to 28 U.S.C. § 157(e), a bankruptcy judge may conduct jury trials in bankruptcy proceedings where the right to a jury trial applies and all parties have consented.
- (d) **Reports and Recommendations by Bankruptcy Judge.**
- (1) **Time for Objections.** Any objection to proposed findings of fact and/or rulings of law by a bankruptcy judge in a non-core proceeding shall be filed and served within ten (10) days after such proposed findings and rulings are served on the objecting party.
- (2) **Content of Objections.** Any objection to the proposed findings of fact and/or rulings of law shall be accompanied by (A) a memorandum of law specifying the proposed findings and/or rulings to which objection is made and the basis for the objection(s), and (B) a transcript of any evidentiary hearing(s) before the bankruptcy judge. The memorandum shall comply with LR Cv 7.
- (3) **Responses and Replies.** A response to an objection shall be served and filed within ten (10) days after the objection is served. The objecting party may serve and file a reply to the response within ten (10) days thereafter. Any response and /or reply shall comply with LR Cv 7. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a bankruptcy judge's proposed findings of fact and rulings of law.

- (e) **Appeals to Bankruptcy Appellate Panel.** In accordance with 28 U.S.C. §158(b)(6), when all parties consent, appeals from any judgment, order or decree of a bankruptcy judge which are referred to in 28 U.S.C. § 158(a) may be heard and determined by the Bankruptcy Appellate Panel for the First Circuit.
- (f) **Appeals to District Court.** Except as otherwise provided in this subsection (f) or elsewhere in these rules, or unless otherwise ordered by the District Court, appeals or motions for leave to appeal to the District Court from any judgment, order or decree of a bankruptcy judge shall be governed by the applicable provisions of Rules 8001 - 8020 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”), and any and all Interim Bankruptcy Rules (“Interim Rules”) which became effective on or after October 17, 2005.
- (1) **Notice of Appeal.** When a notice of appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, forthwith, transmit a copy of the notice of appeal to the District Court clerk, together with a copy of the judgment, order or decree that is the subject of the appeal and the Appeal Cover Sheet. The District Court clerk, thereupon, shall treat the matter administratively as a newly filed case, but in accordance with Interim Rule 8001(f)(2), the matter shall not be deemed “pending” in this Court until the record has been transmitted and docketed.
- (2) **Motion for Leave to Appeal.** When a motion for leave to appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, forthwith, transmit a copy of the motion to the District Court clerk, together with copies of the notice of appeal, the judgment, order or decree that is the subject of the proposed appeal, and any memorandum of counsel submitted in support of or in opposition to the motion. The District Court clerk, thereupon, shall treat the matter administratively as a newly filed case, but in accordance with Interim Rule 8001(f)(2), the matter shall not be deemed “pending” in this Court until leave to appeal has been granted.
- (3) **Requests for Certification.** Any request by a party for the certification of an appeal directly to the Court of Appeals filed in the District Court pursuant to 28 U.S.C. 158(d)(2) and Interim Rule 8001(f) shall be in the form of a motion complying with LR Cv 7.
- (4) **Extensions of Time by a Bankruptcy Judge.** Extensions of time for filing notices of appeal may be granted by the bankruptcy judge in accordance with Bankruptcy Rule 8002(c). Extensions of time for filing motions for leave to appeal and designations of the record or issues on appeal may be granted by the bankruptcy judge for a period not to exceed thirty (30) days.

- (5) **Dismissal of Appeals by Bankruptcy Judge.** A bankruptcy judge may dismiss an appeal if
- (A) the notice of appeal is not filed within the time specified in Bankruptcy Rule 8002;
 - (B) the appellant has failed to file a designation of the record or a statement of the issues within the time specified in Rule 8006 or any extension thereof; or
 - (C) the appellant has failed to comply with paragraph (6)(C) of this subsection.
- (6) **Record on Appeal.** In addition to any other applicable requirements, an appellant, including a party whose motion for leave to appeal has been granted, shall ensure that the record transmitted by the bankruptcy clerk to the District Court clerk includes:
- (A) the judgment, order or decree of the bankruptcy judge that is the subject of the appeal;
 - (B) any written decision(s) and a transcript of any oral decision(s) by the bankruptcy judge stating the reasons for the judgment(s), order(s) and/or decree(s) referred to in subparagraph (A);
 - (C) the record on appeal, as to which the appellant shall be responsible for seeing that each document is tabbed and arranged in reverse chronological order so that the documents appear in the same order as shown on the docket sheet;
 - (D) a statement of the issues on appeal; and,
 - (E) a certified copy of the docket sheet.
- (7) **Form of and Schedule for Filing Briefs.** Unless otherwise ordered by the District Court or provided in these rules, the form and schedule for filing appellate briefs and memoranda shall be governed by Bankruptcy Rule 8009, except that:

- (A) all briefs, memoranda and appendices thereto shall conform to the applicable requirements of LR Cv 7; and
 - (B) two (2) copies of any brief or memorandum shall be provided to the district judge to whom the appeal or motion for leave to appeal is assigned.
- (g) **Stays Pending Appeal to the District Court.** When a motion is made in the District Court to stay a judgment, order or decree of a bankruptcy judge or for any other relief pending appeal, the movant shall file the following with its motion:
 - (1) a copy of the judgment, order or decree that the movant seeks to have stayed;
 - (2) a copy of the bankruptcy judge's order denying the movant's motion to stay;
 - (3) any written decision(s) and/or transcript(s) of any oral decision(s) of the bankruptcy judge stating the reasons for the orders referred to in paragraphs (1) and (2) of this subsection; and
 - (4) a memorandum of law setting forth the reasons why a stay should be granted and the legal authorities supporting the motion for a stay.

Such motion and any related objection(s) and replies shall be governed by the applicable provisions of LR Cv 7.
- (h) **Local Bankruptcy Rules.**
 - (1) **Authority.** The bankruptcy judge(s) may make and amend rules governing practice and procedure in all matters referred to and pending before them.
 - (2) **Notice to District Court.** The bankruptcy court must give notice to the District Court of any amendment to the bankruptcy court's local rules prior to such rules taking effect. After notice is given, such amendment shall take effect on the date specified by the bankruptcy court, unless abrogated by the District Court.

- (i) **Applicability of Local Rules.** In proceedings before a bankruptcy judge, the local bankruptcy rules shall apply. In proceedings before the District Court, these Local Rules shall apply unless the Court otherwise directs.
- (j) **Discretion of District Court.** This rule is not intended to restrict the District Court's discretion as to any aspect of any appeal.

CROSS-REFERENCES

See generally 28 U.S.C. § 151 et seq concerning cases and proceedings referred to, and appeals from, the Bankruptcy Court.

See Fed. R. Bankr. P. 9021 (entry of judgment) and 9033 (objections to bankruptcy judge's proposed findings and recommendations in non-core proceedings).

As to appeals, see generally Fed. R. Bankr.P. 8001 - 8020 and the Interim Bankruptcy Rules.